

DC Appropriations shall submit by January 2, 2002 a report to the Committees on Appropriations of the House and the Senate and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives detailing the awards in judgment rendered in the District of Columbia that were in excess of the cap imposed by prior appropriations acts in effect during the fiscal year when the work was performed, or when payment was requested for work previously performed, in actions brought against the District of Columbia Public Schools under the Individuals with Disabilities Act (20 U.S.C. §1400 et. seq.). Provided further, that such report shall include a comparison of the cause of actions and judgments rendered against public school districts of comparable demographics and population as the District.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, November 7, 2001. The purpose of this hearing will be to continue mark-up on the next Federal farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 7, 2001, at 2 p.m., to hold a nomination hearing.

#### Agenda

##### Nominees

Panel 1: John Marshall, of Virginia, to be an Assistant Administrator (Management) of the United States Agency for International Development and Constance Newman, of Illinois, to be an Assistant Administrator (for Africa) of the United States Agency for International Development.

Panel 2: Cynthia Perry, of Texas, to be United States Director of the African Development Bank for a term of five years; Jose Fourquet, of New Jersey, to be United States Executive Director of the Inter-American Development Bank for a term of three years; and Jorge Arrizurieta, of Florida, to be United States Alternate Executive Director of the Inter-American Development Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### COMMITTEE ON THE JUDICIARY

Mrs. MURRAY. Mr. President: I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, November 7, 2001, at 10 a.m., in Dirksen room 226, to consider the nominations of Joe L. Heaton, to

be United States District Judge for the Western District of Oklahoma, Clay D. Land, to be United States District Judge for the Middle District of Georgia, Frederick J. Martone, to be United States District Judge for the District of Arizona, Danny C. Reeves, to be United States District Judge for the Eastern District of Kentucky, Julie A. Robinson, to be United States District Judge for the District of Kansas, and James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Witnesses will include Senators DON NICKLES, MITCH MCCONNELL, JAMES INHOFE, JON KYL, SAM BROWNBACK, PAT ROBERTS, MAX CLELAND, JIM BUNNING, and ZELL MILLER.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SELECT COMMITTEE ON INTELLIGENCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to hold a closed hearing on intelligence matters on Wednesday, November 7, 2001, at 3:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS AND COMPETITION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Antitrust, Business Rights and Competition be authorized to meet to conduct a hearing on Wednesday, November 7, 2001, at 2 p.m., in Dirksen 226.

Tentative witness list for "International Aviation Alliances: Market Turmoil and the Future of Airline Competition": Donald Carty, President and Chief Executive Officer, American Airlines; Leo Mullen, Chief Executive Officer, Delta Airlines; Richard Anderson, Chief Executive Officer, Northwest Airlines; Richard Branson, Chief Executive Officer, Virgin Atlantic Airlines; Roger Maynard, Director of Alliances and Strategy, British Airways; and Larry Kellner, President, Continental Airlines.

The PRESIDING OFFICER. Without objection, it is so ordered.

##### SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Wednesday, November 7, 2001, at 2:30 p.m., to hold a hearing entitled "Current and Future Weapons of Mass Destruction Proliferation Threats."

The PRESIDING OFFICER. Without objection, it is so ordered.

#### USE OF CONTROLLED SUBSTANCES FOR PHYSICIAN ASSISTED SUICIDE

Mr. NICKLES. Madam President, in a memorandum issued yesterday to Drug Enforcement Administration chief Asa Hutchinson, Attorney General Ashcroft overturned a 1998 decision by Attorney General Janet Reno that allowed for the use of controlled substances for physician assisted suicide.

Until June 5, 1998, everyone understood that assisted suicide was not a "legitimate medical purpose." On that date, Attorney General Janet Reno issued a letter carving out an exception for Oregon to use Federally-controlled substances for assisted suicide, a decision that overturned an earlier determination by the Drug Enforcement Administration and which was in direct conflict with 29 years of practice under the Controlled Substances Act.

Attorney General Ashcroft wrote that assisting in a suicide is not a "legitimate medical purpose" under federal law and determined that prescribing, dispensing, or administering federally controlled substances to assist suicide violates the Controlled Substances Act, regardless of whether State law authorizes or permits such conduct by practitioners.

This important decision restores the uniform national standard that federally-controlled substances can not be used for the purpose of assisted suicide by applying the law to all 50 states.

Federal law is clearly intended to prevent use of these drugs for lethal overdoses, and contains no exception for deliberate overdoses approved by a physician. The Controlled Substances Act requires that these substances can only be used for a "legitimate medical purpose" in the interest of "public health and safety". Assisted suicide can neither be counted as a "legitimate medical purpose" or in the interest of "public health and safety."

I have personally been a long, strong advocate of States' rights and the limited role of the Federal Government. This decision neither overturns or preempts any State legislation related to suicide. Instead, it clarifies that the dispensing of controlled substances for the purpose of assisted suicide is prohibited under longstanding federal law.

Because of Attorney General Reno's letter, for three years the federal government has been complicit in allowing the use of Federally controlled substances for the specific purpose of causing death—in my opinion, in violation of Federal law. There is no role for the Federal Government in providing assisted suicide. I compliment Attorney General Ashcroft's decision to return to the correct and only reasonable interpretation of the Controlled Substances Act. Federally controlled substances should be used for a "legitimate medical purpose" and not for assisted suicide.

In my opinion, this is very good news for patients and health care providers in all 50 States. Yesterday's decision encourages doctors to aggressively use Federally-controlled drugs to treat pain while making sure that one State cannot overturn Federal law. This move by Attorney General Ashcroft was absolutely the right thing to do and I applaud him for it.

A couple of other editorial comments: I heard someone say, Well, wait a minute; this directly overturns Oregon law. It does not. Conversely, the State of Oregon cannot overturn Federal law, and that is what the State of Oregon tried to do.

Federal law has been in effect for 29 years. The Controlled Substances Act goes way back, and it said the Federal Government regulates the use of these very strong and in some cases deadly drugs. The Federal law states it can only be used for a legitimate medical purpose.

The State of Oregon tried to pass by referendum a law that says these drugs can be used for assisted suicide. The Drug Enforcement Administration said they cannot be used for assisted suicide.

Attorney General Reno made a serious mistake 3 years ago when she said it was okay. She was wrong. She was overturning basically and not interpreting the law correctly, not agreeing with the Drug Enforcement Agency that said they never could be used. They reviewed it extensively. I think she made a serious mistake, and as a result some physicians in Oregon were using federally controlled drugs to assist in death.

Attorney General Ashcroft has overturned her letter. Her letter, in my opinion, was in direct contradiction of law. It was very explicit. These drugs can only be used for a legitimate medical purpose, and assisted suicide was never considered a legitimate medical purpose.

Attorney General Ashcroft has now corrected that. Somebody says he has overturned Oregon law. No. What he did was interpret the Federal statute exactly as it was written, exactly as it has been interpreted for the last 30 years, and overturned Attorney General Janet Reno's mistaken interpretation of law.

The fact is, neither Oregon nor Oklahoma can overrule Federal law. If so—we have Federal laws against cocaine—some States could say, we are going to legalize cocaine. But they cannot do that. Individual States cannot overturn Federal statutes. That is exactly what the State of Oregon tried to do. They were mistaken in their legislative approach through the referendum.

Some people say this is denying the people of Oregon their right to vote. That is not correct. The people of Oregon can vote all they want. They just cannot change public law by a public

referendum. That is what they tried to do.

So again I compliment Attorney General John Ashcroft for his decision and for his memorandum to Asa Hutchinson, who is the Drug Enforcement Administration chief. I think both are doing an outstanding job, and I think the decision is good news for patients because now these drugs can be used to alleviate pain.

I still hope we will pass legislation to encourage the use of these very strong drugs to alleviate pain. We have thousands of citizens all across this country who are suffering greatly, and they should be allowed and encouraged to use these very strong drugs to alleviate the pain. If that is the purpose, that is fine. If the purpose is to cause their death by suicide, assisted by a doctor or not, that is not right. That is not allowed under this statute. This statute cannot allow these very strong drugs to be used to alleviate pain.

We should encourage that. Senator LIEBERMAN and I have introduced legislation to that end, and I hope and expect we can get that passed in the not-too-distant future.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—S. 1428

Mr. REID. Madam President, I ask unanimous consent that at 10 a.m. on Thursday, November 8, the Senate proceed to the consideration of Calendar No. 214, S. 1428, the intelligence authorization bill; that other than committee-reported amendments, all amendments be limited to relevant amendments, and any second-degree amendments be relevant to the amendment to which it was offered with the exception of the Smith of New Hampshire amendment relating to immigration deportation, and a Leahy or designee amendment on the same subject as the Smith amendment; that relevant second-degree amendments be in order to these two amendments; that upon the disposition of all amendments the bill be read a third time, and the Senate then proceed to Calendar No. 188, H.R. 2883, the House companion; that all after the enacting clause be stricken, and the text of S. 1428, as amended, if amended, be inserted in lieu thereof, the bill be read a third time and passed, the motion to reconsider be laid upon the table; that the Senate insist on its amendment and request a conference with the House on

the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with this action occurring with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MEASURE PLACED ON THE CALENDAR—S. 1428

Mr. REID. Madam President, I ask unanimous consent that S. 1428 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR THURSDAY, NOVEMBER 8, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Thursday, November 8; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate begin consideration of the intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:51 p.m., adjourned until Thursday, November 8, 2001 at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate November 7, 2001:

##### DEPARTMENT OF THE INTERIOR

REBECCA W. WATSON, OF MONTANA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE SYLVIA V. BACA, RESIGNED.

##### DEPARTMENT OF STATE

JOHN V. HANFORD III, OF VIRGINIA, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM, VICE ROBERT A. SEIPLE.

##### FEDERAL HOUSING FINANCE BOARD

FRANZ S. LEICHTER, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2006, VICE DANIEL F. EVANS, JR., TERM EXPIRED.

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007, VICE BRUCE A. MORRISON, TERM EXPIRED.

##### NATIONAL LABOR RELATIONS BOARD

DENNIS P. WALSH, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 2004, VICE SARAH MCCracken FOX, RESIGNED.

#### WITHDRAWAL

Executive message transmitted by the president to the senate on November 7, 2001, withdrawing from further